

AMENDED IN SENATE AUGUST 11, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2218

Introduced by Assembly Member Burke

February 18, 2016

An act to amend ~~Section~~ *Sections 19855 and 19858* of the Business and Professions Code, relating to gambling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2218, as amended, Burke. Gambling: licenses.

Existing law, the Gambling Control Act, provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the investigation and enforcement of those activities and establishments by the Department of Justice. *A willful violation of the act is a misdemeanor.* Existing law requires every person who is required to hold a state license to obtain the license prior to engaging in the activity or occupying the position with respect to which the license is required, except as specified. Existing law also requires every person who, by order of the commission, is required to apply for a gambling license or a finding of suitability to file an application within 45 calendar days after receipt of the order.

This bill would instead require the application described above to be filed within 60 calendar days after receipt of an order of the commission.

Existing law makes it a misdemeanor for a person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employer, whether for hire or not, any of a list of specified gambling games, or any banking or percentage game played with cards,

dice, or any device, for money, checks, credit, or any representative of value.

Existing law generally requires a person to be deemed unsuitable to hold a state gambling license under the California Gambling Control Act to own a gambling establishment if the person, or any partner, officer, director, or shareholder of that person, has any financial interest in any business or organization that is engaged in any form of gambling prohibited under the provision described above, whether within or without this state. Existing law exempts from these provisions a person who meets specified criteria, including a person who is licensed or had an application to be licensed on file with the commission on or before February 1, 2013. Existing law requires a person exempt under this provision, within 3 years of the date the closed business or organization reopens or becomes engaged in any form of gambling prohibited under the provision described above, to either divest that person's interest in the business or organization or divest that person's interest in the gambling enterprise or gambling establishment for which the person is licensed or has applied to be licensed by the commission.

During this 3-year divestment period, existing law makes it unlawful for any cross-promotion or marketing, as defined, to occur between the business or organization that is engaged in any form of gambling prohibited under the provision described above, and a gambling enterprise or gambling establishment.

This bill would instead require an exempt person, within 6 years of the date the closed business or organization reopens or becomes engaged in any form of gambling prohibited under the provision described above, to either divest that person's interest in the business or organization or divest that person's interest in the gambling enterprise or gambling establishment for which the person is licensed or has applied to be licensed by the commission. The bill would also make conforming changes. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19855 of the Business and Professions
2 Code is amended to read:

3 19855. Except as otherwise provided by statute or regulation,
4 every person who, by statute or regulation, is required to hold a
5 state license shall obtain the license prior to engaging in the activity
6 or occupying the position with respect to which the license is
7 required. Every person who, by order of the commission, is
8 required to apply for a gambling license or a finding of suitability
9 shall file the application within 60 calendar days after receipt of
10 the order.

11 SEC. 2. Section 19858 of the Business and Professions Code
12 is amended to read:

13 19858. (a) Except as provided in subdivisions (b) and (c), a
14 person shall be deemed to be unsuitable to hold a state gambling
15 license to own a gambling establishment if the person, or any
16 partner, officer, director, or shareholder of the person, has any
17 financial interest in any business or organization that is engaged
18 in any form of gambling prohibited by Section 330 of the Penal
19 Code, whether within or without this state.

20 (b) Subdivision (a) shall not apply to a publicly traded racing
21 association, a qualified racing association, or any person who is
22 licensed pursuant to subdivision (b) or (c) of Section 19852.

23 (c) Subdivision (a) shall not apply to a person who meets all of
24 the following criteria:

25 (1) The person is licensed or had an application to be licensed
26 on file with the commission on or before February 1, 2013.

27 (2) The person has a financial interest in a business or
28 organization engaged in gambling prohibited by Section 330 of
29 the Penal Code that was closed and was not engaged in prohibited
30 gambling at the time the person was either licensed or had filed
31 an application to be licensed with the commission.

32 (3) The person has a financial interest in a gambling
33 establishment that is located on any portion of, or contiguous to,
34 the grounds on which a racetrack is or had been previously located
35 and horserace meetings were authorized to be conducted by the
36 California Horse Racing Board on or before January 1, 2012.

37 (4) The grounds upon which the gambling establishment
38 described in paragraph (3) is located are directly or indirectly

1 owned by a racetrack limited partnership owner. For purposes of
2 this paragraph, a “racetrack limited partnership owner” ~~is defined~~
3 ~~as means~~ a limited partnership, or a number of related limited
4 partnerships, that is or are at least 80 percent capitalized by limited
5 partners that are an “institutional investor” as defined in subdivision
6 (w) of Section 19805, an “employee benefit plan” as defined in
7 Section 1002(3) of Title 29 of the United States Code, or an
8 investment company that manages a state university endowment.

9 (d) Within ~~three~~ *six* years of the date the closed business or
10 organization reopens or becomes engaged in any form of gambling
11 prohibited by Section 330 of the Penal Code, a person described
12 in subdivision (c) shall either divest that person’s interest in the
13 business or organization, or divest that person’s interest in the
14 gambling enterprise or gambling establishment for which the
15 person is licensed or has applied to be licensed by the commission.

16 (e) A person described in subdivision (c) shall inform the
17 commission within 30 days of the date on which a business or
18 organization in which the person has a financial interest begins to
19 engage in any form of gambling prohibited by Section 330 of the
20 Penal Code.

21 (f) During the ~~three-year~~ *six-year* divestment period described
22 in subdivision (d), it is unlawful for any cross-promotion or
23 marketing to occur between the business or organization that is
24 engaged in any form of gambling prohibited by Section 330 of the
25 Penal Code and the gambling enterprise or gambling establishment
26 described in paragraph (3) of subdivision (c). For purposes of this
27 subdivision, “cross-promotion or marketing” means the offering
28 to any customers of the gambling enterprise or gambling
29 establishment anything of value related to visiting or gambling at
30 the business or organization engaged in any form of gambling
31 prohibited by Section 330 of the Penal Code.

32 (g) During the ~~three-year~~ *six-year* divestment period described
33 in subdivision (d), any funds used in connection with the capital
34 improvement of the gambling enterprise or gambling establishment
35 described in paragraph (3) of subdivision (c) shall not be provided
36 from the gaming revenues of either the business or organization
37 engaged in gaming prohibited under Section 330 of the Penal Code.

38 (h) If, at the end of the ~~three-year~~ *six-year* divestment period
39 described in subdivision (d), any person described in subdivision
40 (c) has not divested his or her interest in either the gambling

1 enterprise or gambling establishment or the business or
2 organization engaged in any form of gaming prohibited under
3 Section 330 of the Penal Code, the prohibitions of Section 19858
4 as it read on January 1, 2013, apply.

5 *SEC. 3. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *the only costs that may be incurred by a local agency or school*
8 *district will be incurred because this act creates a new crime or*
9 *infraction, eliminates a crime or infraction, or changes the penalty*
10 *for a crime or infraction, within the meaning of Section 17556 of*
11 *the Government Code, or changes the definition of a crime within*
12 *the meaning of Section 6 of Article XIII B of the California*
13 *Constitution.*